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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9 PERRY LEE SISCO,

10 Plaintiff,

No. CIV S-05-0867 GEB JFM P

11 vs.

12 STATE OF CALIFORNIA, et al.,

13 Defendants.

FINDINGS AND RECOMMENDATIONS

14 _____/
15 Plaintiff, a state prisoner, is proceeding pro se with a civil rights action pursuant to
16 42 U.S.C. § 1983.

17 On November 28, 2005, the court ordered the United States Marshal to serve
18 process on defendants. Process directed to defendants Beruth, Schmidt, Spears and Falconer was
19 returned unexecuted. By orders filed December 21, 2005, this court ordered plaintiff to complete
20 and return to the court, within sixty days, the USM-285 forms necessary to effect service on
21 defendants Beruth, Schmidt, Spears, and Falconer. The sixty day period expired and plaintiff did
22 not comply with the court's order. Accordingly, on March 8, 2006, this court recommended that
23 plaintiff's claims against said defendants be dismissed from the action without prejudice.

24 On April 17, 2006, plaintiff filed objections to the findings and recommendations.
25 On June 14, 2006, the court vacated the findings and recommendations and granted plaintiff an
26 additional period of sixty days in which to return the forms necessary for service of process on

1 defendants Beruth, Schmidt, Spears, and Falconer. That sixty period has also passed, and
2 plaintiff has not complied with the court's order.¹ Moreover, more than 120 days have elapsed
3 during which time plaintiff was responsible for providing information necessary to serve these
4 four defendants and he has failed to do so. Accordingly, the claims against these defendants
5 should be dismissed without prejudice. See Fed. R. Civ. P. 4(m); see also Walker v. Sumner, 14
6 F.3d 1415, 1421-22 (9th Cir. 1994).

7 IT IS HEREBY RECOMMENDED that plaintiff's claims against defendants
8 Beruth, Schmidt, Spears and Falconer be dismissed without prejudice. See Fed. R. Civ. P. 4(m).

9 These findings and recommendations will be submitted to the United States
10 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
11 twenty days after being served with these findings and recommendations, any party may file
12 written objections with the court. The document should be captioned "Objections to Findings
13 and Recommendations." The parties are advised that failure to file objections within the
14 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
15 F.2d 1153 (9th Cir. 1991).

16 DATED: December 21, 2006.

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19 UNITED STATES MAGISTRATE JUDGE

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26 ¹ On October 16, 2006, plaintiff submitted two copies of the May 2, 2005 complaint and
one USM-285 form. These documents are insufficient to comply with the June 14, 2006 order.